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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,786	12/21/2000	Thomas G. Lacey	05918-083002	3084

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EXAMINER

EASHOO, MARK

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 06/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/745,786

Applicant(s)

LACEY ET AL.

Examiner

Mark Eashoo, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 78-111 is/are pending in the application.
- 4a) Of the above claim(s) 78-101, 110 and 111 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 102-109 is/are rejected.
- 7) ☒ Claim(s) 102-109 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of claims 102-109, group I, in Paper No. 10, filed 29-APR-2003, is acknowledged. Claims 78-101, 110, and 111 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.

### *Priority*

Applicant is requested that applicant update the priority data and insert it on page 1, line 1 of the instant specification.

### *Information Disclosure Statement*

The information disclosure statements filed 06-APR-2001 and 22-APR-2002 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Accordingly, they have been placed in the application file and the information referred to therein has been considered as to the merits.

### *Claim Objections*

Claims 102-109 are objected to because they are dependent upon a non-elected claim. Since claim 85 would need to be canceled if/when the claims are allowed, it is recommended that the limitations of claim 85 be positively recited in claim 102.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 102-109 are rejected under 35 USC 103(a) as being unpatentable over Provost et al. (US Pat. 5,692,271) in view of Roessler et al. (US Pat. 5,176,670) and Becker et al. (US Pat. 4,931,343).

Regarding claim 102: Provost et al. teaches the basic claimed process for forming a multiplicity of elements with stems, comprising: a molding apparatus having a mold roll including series of circular mold plates with mold cavities (Figs. 4-7), an opposed forming member which causes moldable resin to fill mold cavities on the mold roll (Fig. 4); supplying a continuous flow of resin to a mold gap (Fig. 4); cooling the resin on the rotating mold roll (Fig. 4 and 8:24-42); and stripping cooled resin from the mold roll (Fig. 4 and 8:24-42).

Provost et al. does not teach mold cavity depth of less than about 0.025 inch. However, Roessler et al. teaches hook fastener heights in the range of about 0.010 to 0.045 inch (6:55-62). The hook fasteners intrinsically require molds cavities of similar proportions. Provost et al. and Roessler et al. are combinable because they are from the same field of endeavor, namely, hook fastener material. At the time of invention a person of ordinary skill in the art would have found it obvious to have made a hook fastener material having hook fastener heights in the range of about 0.010 to 0.045 inch, as taught by Roessler et al., in the process of Provost et al., and would have been motivated to do so in order to produce a commercially desired product (ie. a fastener tape for disposable diapers).

Provost et al. does not teach a nip or mold gap of less than about 0.003 inch. However, Becker et al. teaches a fastener base sheet in the range of .0015 to 0.005 inch (4:10-20). Provost et al. and Becker et al. are combinable because they are from the same field of endeavor, namely, hook fastener material. At the time of invention a person of ordinary skill in the art would have found it obvious to have made a hook fastener material having a fastener base sheet in the range of .0015 to 0.005 inch, as taught by Becker et

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al., in the process of Provost et al., and would have been motivated to do so in order to use the least amount of material possible for a desired/required product strength.

Regarding claims 103, 104, and 105: Becker et al. teaches a fastener base sheet made from polypropylene having a melt index of 35 (example 4). Provost et al. and Becker et al. would have been combined for the same reasons as set forth above (ie. desired/required product strength).

Regarding claim 106 and 107: Provost et al. teaches hook shaped cavities for forming fastener elements (Figs. 3a and 5-7).

Regarding claim 108 and 109: Provost et al. does not a resin having a tensile yield strength of about 5,000 to 5,300 pounds per square inch or an elongation of at least 10 percent. However, Roessler et al. teaches a hook fastener material of polypropylene copolymer (6:29-31). Becker et al. teaches a fastener sheet material of high density polyethylene have a low elongation and a desired range of tensile strength (3:47-4:20). It is noted that applicant's disclosure teaches the same materials, even preferring polypropylene (pg. 49). Furthermore, it is well within the skill of an ordinary artisan to select an appropriate grade of material depending upon the application of the product using only routine experimentation and optimization. At the time of invention a person of ordinary skill in the art would have found it obvious to have made a hook fastener material of either polypropylene or polyethylene, as taught by Roessler et al. or Becker et al., in the process of Provost et al., and would have been motivated to do so in order to use materials having the desired mechanical properties required for the molded product.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller et al. '091, Kourtidis et al., Jackson, Seth et al., Hammer (US and German patents), and Lacey et al. all teach the basic state of the art.

### *Correspondence*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (703) 308-3606. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where

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this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Mark Eashoo, Ph.D.  
Primary Examiner  
Art Unit 1732

28 / Jun / 03

me  
June 20, 2003